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APPROVED AS TO FORM AND LEGALITY


DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

Resolution No. 83817 C.M.S.

**RESOLUTION AUTHORIZING AN EXCLUSIVE NEGOTIATING AGREEMENT
WITH RALPHS/ FOOD 4 LESS GROCERY COMPANY FOR DEVELOPMENT
OF A SUPERMARKET AND FUEL STATION AT 66TH AVENUE AND SAN
LEANDRO STREET**

WHEREAS, the City of Oakland is actively working to develop East Oakland in the vicinity of the Coliseum BART Station with new commercial facilities to serve residents; and

WHEREAS, in January, 2012, the City purchased 6.3 acres at the northeast corner of 66th Avenue and San Leandro Street (the "Property") from the Redevelopment Agency of the City of Oakland to hold for future development; and

WHEREAS, Ralphs/Food 4 Less Grocery Company ("Ralphs") submitted a proposal to develop a 72,000 square foot supermarket with 290 parking spaces and a fuel station on at least four acres of the Property; and

WHEREAS, the City and Ralphs have been in discussions, and now want to enter an Exclusive Negotiating Agreement ("ENA") for the purposes of studying and evaluating the feasibility of and negotiating terms and conditions for the possible development of a supermarket and fuel station on the Property; and

WHEREAS, the City and Ralphs desire to enter an ENA for an up to twelve month period, with the ability to extend the ENA period for an additional three months with City Administrator approval; and

WHEREAS, the City and the Ralphs agree that this authorization to enter an ENA does not constitute a binding commitment on the part of the City to any developer or to participate in any project; and

WHEREAS, the requirements of CEQA, the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been met as to this action; now therefore be it

RESOLVED: That the City Administrator is authorized to negotiate and enter into an Exclusive Negotiating Agreement with Ralphs, or an affiliated entity approved by the City Administrator, for the purposes of studying and evaluating the feasibility of, and negotiating terms and conditions for, the possible sale of the Property and development of a supermarket and fuel station on the Property; and be it

FURTHER RESOLVED: That the ENA shall include the following provisions:

- Ralphs will submit a project description suitable for environmental review purposes that includes site plans, elevations, proposed project scaling and circulation, and periodic Coliseum Complex event parking strategies on a City-owned 2.3 acre surface parking lot;
- Ralphs and the City will mutually determine whether the required environmental review will be undertaken by Ralphs, the developer, as is the City's general practice, or whether Ralphs and the City will undertake the environmental review jointly;
- Ralphs will secure all required land use entitlements;
- Ralphs will develop a project pro forma to evaluate the financial feasibility of the market rate project; and
- Ralphs will make a \$25,000 good faith deposit in order to secure the exclusive right to negotiate to develop the 915 66th Avenue property; and be it

FURTHER RESOLVED: That the exclusive negotiating period shall be for 12 months from the date of this Resolution, with an option to extend this period for an additional three months at the discretion of the City Administrator or her designee; and be it

FURTHER RESOLVED: That the ENA shall provide for automatic termination if the Property is involuntarily transferred pursuant to Health and Safety Code Section 34167.5; and be it

FURTHER RESOLVED: That the City has independently reviewed and considered this environmental determination, and the City finds and determines that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15262 (feasibility and planning studies), Section 15306 (information collection) and Section 15061(b) (3) (general rule) of the CEQA Guidelines; and be it

FURTHER RESOLVED: That the City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption and an Environmental Declaration (California Fish and Game Code Section 711.4) for this action; and be it

FURTHER RESOLVED: That the Exclusive Negotiating Agreement shall be reviewed and approved as to form and legality by City Attorney prior to execution, and a copy shall be filed with the City secretary; and be it

FURTHER RESOLVED: That the City hereby authorizes the City Administrator or her designee to negotiate and execute documents and take all other actions necessary with respect to

the Exclusive Negotiating Agreement and the project consistent with this Resolution and its basic purpose.

IN COUNCIL, OAKLAND, CALIFORNIA, APR 30 2012

PASSED BY THE FOLLOWING VOTE:

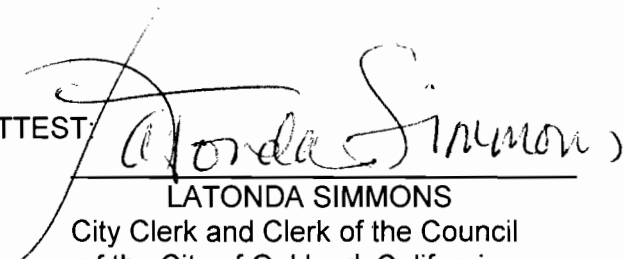
AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California